

**NORTH CAROLINA GENERAL COURT OF JUSTICE**

SUPERIOR COURT DIVISION

\* \* \* \* \*

5 STATE OF NORTH CAROLINA )  
6 vs. ) COUNTY OF MOORE  
7 LEE MARVIN HARRIS, SR., ) 18 CRS 50513-14  
8 Defendant. )

\* \* \* \* \*

**TRANSCRIPT OF BOND HEARING**

Pages 1 through 16

July 10, 2018

Honorable JAMES M. WEBB, Judge Presiding

16 || APPEARANCES:

WARREN MCSWEENEY  
Assistant District Attorney  
P. O. Box 429  
Carthage, NC 28327  
[Warren.McSweeney@nccourts.org](mailto:Warren.McSweeney@nccourts.org)  
On behalf of the State

PETER BROWNBACK, Attorney at Law  
235 E. Pennsylvania Ave  
Southern Pines, NC 28387  
910-695-7030  
On behalf of the Defendant Harris, Sr

(These proceedings commenced at 10:24 a.m. on July 10, 2018. The defendant present with counsel.)

10:24:03      4                    MR. MCSWEENEY: Ma'am Sheriff, if you could bring  
5 out Mr. Lee Marvin Harris, Sr., please?

10:24:07 6 THE COURT: Lee Marvin Harris, Sr.?

10:24:49 7 MR. MCSWEENEY: Yes, sir. He's being brought out  
8 from the holding cell.

10:24:52      9      THE COURT: For what purpose?

10:24:54 10 MR. MCSWEENEY: Your Honor, as we mentioned earlier,  
11 to readdress his pretrial conditions of release.

10:25:01 12 THE COURT: Somebody wrote on my calendar V.D. I  
13 assume that stands for voluntary dismissal?

10:25:08 14 MR. MCSWEENEY: That is -- Judge, Your Honor that,  
15 is -- yes, matters --

10:25:11      16      MR. BROWNBACK: I'll take that, Judge.

10:25:30 22 THE COURT: I don't know whose mark that is, but you  
23 say that's an error; is that right?

10:25:34 24 MR. MCSWEENEY: That is an error, Your Honor.

10:25:35      25      THE COURT: Well, I'll strike through the V.D.s.

10:26:00 1 All right. What's his current bond? Last time  
2 I --

10:26:03 3 MR. MCSWEENEY: Your Honor, I believe that you set  
4 his bond --

10:26:08 5 MR. BROWNBACk: On May 1st you reduced the bond to  
6 \$500,000, Judge.

10:26:12 7 THE COURT: With additional conditions?

10:26:14 8 MR. BROWNBACk: No contact with the codefendants.

10:26:18 9 THE COURT: All right. Does he have family here  
10 today like he did the last time?

10:26:23 11 MR. BROWNBACk: He does. He has his brother, raise  
12 your hand, and his wife, Ms. Valerie. Raise your hand.

10:26:29 13 THE COURT: All right. He couldn't make that,  
14 although there was some thought that he could?

10:26:33 15 MR. BROWNBACk: He is just unable to make that,  
16 Judge. His wife is employed with the Moore County school  
17 system. He is disabled. He receives social security and  
18 some money from the military because he is a veteran of the  
19 armed services, Your Honor.

10:26:46 20 Judge, we still -- I was appointed on February  
21 the 22nd. We filed for discovery request on February the  
22 27th. He was indicted on March the 5th. I still don't have  
23 any other information about this case, Judge. I have no  
24 discovery. I have nothing.

10:27:04 25 Your Honor, there were three codefendants in

1       this matter, and it's my understanding that they have been  
2       indicted and taken into federal custody, which is why Junior  
3       has V.D. written beside him on the calendar today.

10:27:18     4               I don't know what information was given to the  
5       feds for their investigation, but I find it telling that the  
6       feds pick up three of the codefendants and leave two. They  
7       have done nothing with my client.

10:27:32     8               I'm unable to obtain any further information.  
9       I don't know how the federal government made a determination  
10      of who was more culpable because if the federal government  
11      had determined that Mr. Harris had some culpability, I think  
12      they would have swept him up as well. They did not do that.

10:28:02     13              Your Honor, we need a reasonable bond that he  
14      can make. He is not a flight risk. He has been a member of  
15      the Moore County community his entire life. His wife, his  
16      brothers, he has had multiple family members present and who  
17      have resided here. He's resided on Sycamore Street in  
18      Aberdeen for years and years and years. He has no place to  
19      go. Unlike the written determination that he's a flight  
20      risk, that's absurd.

10:28:29     21              THE COURT: What is the status of the codefendants  
22      other than the United States government choosing to prosecute  
23      them?

10:28:35     24              MR. BROWNBACK: I have no idea, Judge.

10:28:37     25              THE COURT: Do you know if they made bond before the

1       United States government decided to prosecute them?

10:28:41   2           MR. BROWNBACK: I don't know, Judge.

10:28:42   3           THE COURT: Well, can you -- what bond do you say  
4           your client may be able to make?

10:28:55   5           MR. BROWNBACK: Your Honor, the only asset that he  
6           has is the real property located on Sycamore Street, and  
7           there's -- he doesn't own that outright.

10:29:08   8           THE COURT: Who does?

10:29:11   9           MR. BROWNBACK: Wells Fargo. He just doesn't have  
10          access to funds, Judge.

10:29:19   11          THE COURT: Does he have any equity in the house?

10:29:31   12          MR. BROWNBACK: Your Honor, Ms. Becky Carlson, now  
13          Smith, said that she does have some electronic house arrest  
14          anklets I think have been made available to her. I believe  
15          she said that the cost of that was \$225 per month. If the  
16          Court would consider that kind of option, I'd prefer it if we  
17          could lower the bond to something he can get a bondsman to  
18          make a bond for, but if the Court would consider releasing  
19          him and seeing if we can get some type of electronic house  
20          arrest.

10:30:04   21          THE COURT: Anything further you wish to say at this  
22          time?

10:30:08   23          MR. BROWNBACK: Judge, four months, no information.  
24          Why are we holding him? You know, they put out press  
25          releases the day that he was arrested, and all that went out.

10:30:17 1                   THE COURT: Well, wait a minute. This Court didn't  
2 put out any press releases.

10:30:21 3                   MR. BROWNBACK: Law enforcement put out press  
4 releases the day he was arrested, and that's the only  
5 information I've gotten about what he's charged with. I have  
6 nothing else.

10:30:29 7                   THE COURT: Haven't read the search warrant?

10:30:30 8                   MR. BROWNBACK: I have the search warrant, Judge.  
9 We went over that the last time, and the lack of my client  
10 being mentioned anywhere in that search warrant, not  
11 surveilled, not seen with anything.

10:30:40 12                  Your Honor, the Court on its own called up the  
13 investigating officer and asked for the best evidence that  
14 the investigating officer had. The officer said, I believe,  
15 I'm not sure, but I believe that he said that he observed the  
16 defendant driving a vehicle that was on the property that was  
17 searched.

10:30:59 18                  But I haven't seen any other evidence much less  
19 best evidence.

10:31:03 20                  THE COURT: Let's see what the State has to say.

10:31:06 21                  MR. MCSWEENEY: Your Honor, State would ask, as we  
22 did at the prior session, that the bond remain the same.

10:31:10 23                  Your Honor, the three of the codefendants have  
24 been indicted by the federal government in their initial  
25 round of indictments.

10:31:20 1 THE COURT: Remind the Court what their relationship  
2 is to the defendant, if any.

10:31:23 3 MR. MCSWEENEY: Your Honor, one of the defendants,  
4 Lee Marvin Harris, Jr., is the son of the defendant.  
5 Mr. Lamar Seally and Christian Terry, I don't believe they  
6 are of any family relation to this defendant.

10:31:43 7 There was one other codefendant that was not  
8 from Moore County who has been indicted. I've been going  
9 back and forth with the U.S. Attorney's office. It is my  
10 understanding that they are not done with -- with indictments  
11 in this matter as far as additional charges, and even  
12 additional defendants.

10:32:13 13 Spoke with Detective Perry --

10:32:19 14 THE COURT: Who is present?

10:32:20 15 MR. MCSWEENEY: He is present, Your Honor. There  
16 might be some additional charges or potential federal charges  
17 based on phone conversations between this defendant and other  
18 family members in regarding the evidence that was located at  
19 his residence on Sycamore Drive in Aberdeen, or Sycamore  
20 Street, based on some statements and some recorded phone  
21 calls regarding evidence that was located at his residence.

10:32:55 22 Your Honor, I do want to clarify one thing that  
23 Mr. Brownback referenced to the State did argue in the first  
24 motion for bond. I incorrectly told the Court that this  
25 defendant had been seen driving a vehicle that's mentioned in

1       the search warrant, and that was located at the defendant's  
2       property where approximately 88 grams of powdered cocaine was  
3       located inside the vehicle. Again, the vehicle was  
4       registered to this defendant. The keys were located inside  
5       the residence where the vehicle was located, again, at the  
6       defendant's residence.

10:33:36      7                   I incorrectly stated that the defendant had  
8       been seen driving that vehicle. That was -- that was not  
9       correct, Your Honor, so I want to make sure I clarified that,  
10      that that was not anything that law enforcement had told me.

10:33:50      11                  I misinterpreted or misunderstood what the  
12      officers had told me, but they in no way had said they had  
13      seen the defendant driving a particular Cadillac that's in  
14      question.

10:34:01      15                  It is my understanding that that vehicle might  
16      not be operational, but I want to make sure I clarified that  
17      to the Court, but nevertheless, it was a vehicle that was  
18      located on the property.

10:34:13      19                  THE COURT: Of the defendant?

10:34:14      20                  MR. MCSWEENEY: Of the defendant.

10:34:15      21                  THE COURT: Where a trafficking amount of cocaine  
22      was seized?

10:34:18      23                  MR. MCSWEENEY: Yes, Your Honor, but wanted to make  
24      sure I made sure that the Court, that the statement I made  
25      that they had seen him driving in that vehicle was not

1 correct.

10:34:29 2 Your Honor, the State would ask -- the State  
3 does realize, and I've had multiple conversations with the  
4 U.S. Attorney's office and with the Southern Pines Police  
5 Department regarding the discovery in this case, the  
6 defendant, all the defendants have been in custody since I  
7 believe February 20th of this year.

10:34:50 8 Your Honor, we would ask the bond to remain the  
9 same. As I mentioned at the prior hearing, the defendant  
10 does not have any prior record absent very minor traffic  
11 infractions.

10:35:03 12 If Your Honor, and I believe Your Honor did  
13 when you modified the codefendants' bonds, you did include a  
14 provision that they be subject to electronic house arrest. I  
15 don't believe that condition was made by Your Honor with  
16 respect to this defendant.

10:35:22 17 If Your Honor is inclined to modify the bond we  
18 would ask at the very least the defendant be subject to a  
19 curfew and through electronic house arrest. Ms. Cameron,  
20 Becky Cameron did mention to me yesterday that she does have  
21 the ability to use house arrest bracelets or monitoring. I  
22 don't know the logistics of it, Your Honor, and I believe the  
23 fee that Mr. Brownback mentioned, \$225 a month, that seems to  
24 be what she told me it was.

10:35:54 25 So we would ask at a minimum to be subject to

1 curfew, no contact with codefendants, including his son  
2 should his son make bond, and subject to some form of  
3 electronic house arrest or monitoring.

10:36:20 4 That would be all, Your Honor.

10:36:23 5 THE COURT: Do you want to say anything about  
6 Mr. Brownback's contention that he's not been provided with  
7 any discovery?

10:36:33 8 MR. MCSWEENEY: And Your Honor, that is correct.

9 The State's -- we were coordinating with the federal  
10 government as far as the release of discovery. The fact that  
11 they have -- and I believe there was, as recently as  
12 yesterday there was a detention hearing in federal court on  
13 some of the codefendants. It is my understanding that the  
14 discovery has not been released to those codefendants.

10:37:00 15 So the State, again, we are aware of our duty,  
16 being duty bound to release discovery, and I -- I'm still  
17 trying to coordinate with the U.S. Attorney's office to make  
18 sure the timing is done correctly, understanding the rights  
19 to the defendant.

10:37:23 20 But Mr. Brownback is correct, Your Honor, we  
21 have not provided discovery in this matter.

10:37:29 22 THE COURT: Codefendants is Marvin Lee Harris, Jr.;  
23 is that correct?

10:37:34 24 MR. MCSWEENEY: Lee Marvin Harris, Jr.

10:37:36 25 THE COURT: Lee Marvin Harris.

10:37:39 1 MR. MCSWEENEY: Lamar Seally.

10:37:40 2 THE COURT: Say again.

10:37:41 3 MR. MCSWEENEY: Lamar Seally. Lisa Hanani.

10:37:49 4 THE COURT: Spell that.

10:37:51 5 MR. MCSWEENEY: H-A-N-A-N-I. Christian Terry. And  
6 Your Honor, the -- there was an additional codefendant,  
7 actually Calvin Fox, he was from Lee County, and I apologize,  
8 Your Honor, going back through my e-mails, or my  
9 correspondence with Ms. McFadden and Mr. -- and his name,  
10 Your Honor, is Gonzalo, G-O-N-Z-A-L-O, first name, last name  
11 Gomez, G.O.M.E.Z. He has also been indicted and is in  
12 federal custody.

10:39:10 13 THE COURT: Anything further from the State?

10:39:16 14 MR. MCSWEENEY: No, Your Honor, other than what I  
15 had already argued at the prior setting. At a minimum, with  
16 the cocaine that was located in the vehicle registered to the  
17 defendant at the defendant's residence, he's looking at a  
18 mandatory minimum sentence of between no less than 35 to 51  
19 months.

10:39:47 20 THE COURT: All right. Did you want to say  
21 something else, Mr. Brownback? You looked like you did.

10:39:53 22 MR. BROWNBACK: Your Honor, I kind of do.

10:39:54 23 Judge, paragraph three says that this  
24 investigation began in February 2017. They don't have any  
25 information they can give to me? They have nothing? We can

1 just hold him for over four months without providing me a  
2 single thing? I don't even know how much cocaine was  
3 allegedly found, just that some white powder was found. Now  
4 we're hearing poundage.

10:40:15 5 Your Honor, the attorney general's office  
6 doesn't have a single thing to do with my client. Nothing.  
7 They haven't exerted any jurisdiction over my client. They  
8 haven't charged him. They haven't indicted him. Why do they  
9 have a say about when I get discovery? Or better yet, when  
10 my client gets the discovery that's due him? And then,  
11 Judge --

10:40:33 12 THE COURT: Do you mean the U.S. Attorney's office?

10:40:36 13 MR. BROWNBACK: Whoever indicted the codefendants.

10:40:37 14 THE COURT: You said the attorney general.

10:40:38 15 MR. BROWNBACK: I apologize, Judge.

10:40:39 16 THE COURT: Well, he's got his hands full with his  
17 boss, I believe. Go ahead.

10:40:44 18 MR. BROWNBACK: He does, Your Honor. And then  
19 hearing now that there's phone calls and perhaps coming down  
20 the road more charges. Judge, we're just not privy to any of  
21 this. He is 58 years old. He's not a flight risk. Can we  
22 just please get him back to his house so he can help prepare  
23 his defense?

10:41:06 24 THE COURT: The defendant may be released upon the  
25 posting of a \$25,000 secured bond; further, on the condition

1 that he abide by pretrial electronic house arrest. And as I  
2 understand it, one or more bonding companies have that  
3 ability, or whatever Ms. Carlson has, or Cameron -- isn't it  
4 Ms. Cameron?

10:41:35 5 MR. MCSWEENEY: Yes, Your Honor, Cameron.

10:41:36 6 THE COURT: Ms. Becky Cameron. He's to have no  
7 contact directly or indirectly with codefendants Lee Marvin  
8 Harris, Jr., Lamar Seally, Lisa, how do you know pronounce  
9 her last name?

10:42:01 10 MR. MCSWEENEY: I believe Hanani.

10:42:03 11 THE COURT: H-A-N-A-N-I?

10:42:08 12 MR. MCSWEENEY: Your Honor, I apologize it is M-I --  
13 H-A-N-A-M-I, Hanami.

10:42:18 14 THE COURT: See how it's spelled in the search  
15 warrant.

10:42:22 16 Last name is spelled H-A-N-A-M-I, Christian  
17 Terry, Calvin Fox, Gonzalo Gomez.

10:42:44 18 Your client doesn't work anywhere, does he?

10:42:58 19 MR. BROWNBACk: No, sir, he is a pastor, so he does  
20 minister to some people but he's not paid for that.

10:43:06 21 THE COURT: Does he have a need to do that after the  
22 7:00 p.m. hour?

10:43:09 23 MR. BROWNBACk: No, sir.

10:43:16 24 THE COURT: Also to observe a curfew, not be away  
25 from his residence between 8:00 p.m. and 6:00 a.m.

10:43:28 1 MR. BROWNBACK: Thank you, Your Honor.

10:43:29 2 THE COURT: All right.

10:43:34 3 MR. MCSWEENEY: September 4th, Your Honor.

10:43:36 4 THE COURT: September the 4th the D.A. says is the  
5 next court date, Mr. Brownback.

10:43:44 6 MR. BROWNBACK: I'm sorry, Your Honor?

10:43:45 7 THE COURT: I understand the D.A. said next court  
8 date is September 4th.

10:43:49 9 MR. BROWNBACK: Thank you, Your Honor. Thank you.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

### CERTIFICATION OF TRANSCRIPT

5               This is to certify that the foregoing transcript of  
6 proceedings taken at the July 10, 2018 Session of the Moore  
7 County Superior Court is a true and accurate transcript of  
8 the proceedings taken by me and transcribed by me. I further  
9 certify that I am not related to any party or attorney, nor  
10 do I have any interest whatsoever in the outcome of this  
11 action.

12 || This the 7th day of October, 2018.

CYNTHIA L. HALL, RPR  
Official Court Reporter 19D